

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JASON ROPER,

Plaintiff,

vs.

No. CIV 23-0491 JB/KK

JON STANFORD, AUSA; WADE MILLER,
US Probation Officer, and ISAAC ROMERO,
APD Detective,

Defendants.

MEMORANDUM OPINION AND ORDER DENYING POST-JUDGMENT MOTION

THIS MATTER comes before the Court on the Plaintiff's post-judgment Motion to Dismiss, filed February 5, 2024 (Doc. 9) ("Motion"). In the Motion, Plaintiff Jason Roper seeks dismissal of the criminal charges pending against him in USA v. Roper, No. CR 23-1617 WJ, based on an alleged speedy trial violation. See Motion at 3. The Court concludes that the Motion lacks a sound foundation in the applicable law and the relevant facts. Accordingly, the Court denies the Motion.

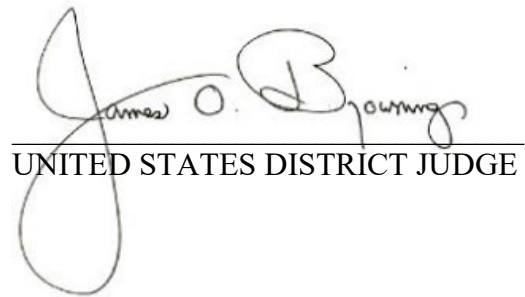
ANALYSIS

"Where a defendant is awaiting trial, the appropriate vehicle for violations of his constitutional rights are pretrial motions or the expedited appeal procedure provided by the Bail Reform Act, 18 U.S.C. § 3145(b), (c), and not a habeas corpus petition." Thompson v. Robinson, 565 F. App'x 738, 739 (10th Cir. 2014)¹(quoting Whitmer v. Levi, 276 F. App'x. 217, 218 (3d

¹Thompson v. Robinson, 565 F. App'x 738 (10th Cir. 2014), is an unpublished opinion, but the Court can rely on a Tenth Circuit unpublished opinion to the extent its reasoned analysis is persuasive in the case before it. See 10th Cir. R. 32.1(A) ("Unpublished decisions are not precedential, but may be cited for their persuasive value."). The Tenth Circuit has stated:

Cir. 2008)). If Roper intends to seek dismissal of the criminal case against him on speedy trial grounds, he must file an appropriate motion in that case. See Thompson v. Robinson, 565 F. App'x at 739 ("To allow Thompson to bring these claims to another judge in a collateral proceeding 'would not only waste judicial resources, but would encourage judge shopping.'" (quoting Chandler v. Pratt, 96 F. App'x 661, 662 (10th Cir. 2004))). Because Roper cannot raise such claims in a collateral proceeding, the Court denies the Motion.

IT IS ORDERED that the Motion to Dismiss, filed February 5, 2024 (Doc. 9), is denied.



UNITED STATES DISTRICT JUDGE

Parties:

Jason Roper
Milan, New Mexico

Petitioner pro se

In this circuit, unpublished orders are not binding precedent, . . . [a]nd we have generally determined that citation to unpublished opinions is not favored. . . . However, if an unpublished opinion or order and judgment has persuasive value with respect to a material issue in a case and would assist the court in its disposition, we allow a citation to that decision.

United States v. Austin, 426 F.3d 1266, 1274 (10th Cir. 2005). The Court concludes that Thompson v. Robinson has persuasive value with respect to a material issue, and will assist the Court in its disposition of this Memorandum Opinion and Order.